

**PLANNING COMMISSION & BOARD OF ZONING ADJUSTMENT  
MINUTES  
CREEKMORE PARK COMMUNITY CENTER  
5:30 P.M.  
APRIL 14, 2009**

On roll call, the following Commissioners were present: Steve Griffin, Jennifer Parks, Tom Cannava, Keith Lau, Joe Davis and Mike Lorenz.

Chairman Griffin then called for the vote on the minutes from the March 10, 2009, Planning Commission meeting. Motion was made by Commissioner Davis, seconded by Commissioner Parks and carried unanimously to approve the minutes as written.

Mr. Wally Bailey spoke on the procedures.

Mr. Bailey read the consent agenda and noted that if a Planning Commissioner or member of the audience did not request an item be pulled from the consent agenda and discussed separately, the consent agenda would be voted on as one item.

**1. CONSENT AGENDA**

- A. Conditional Use #7-4-09; A request by Chip Johnson, agent, for a conditional use for parking lot construction for Southside High School located at 4100 South Gary.**
- B. Conditional Use #8-4-09; A request by Randy Coleman, agent, for a conditional use for two (2) residence halls for U of A Fort Smith located at 5210 Grand Avenue.**
- C. Conditional Use #9-4-09; A request by Ben Anderson, agent, for a conditional use for a church located at 7804 Rogers Avenue.**
- D. Conditional Use #10-4-09; A request by Louay Nassri, agent, for a conditional use for a place of worship located at 8501 South 28<sup>th</sup> Street.**
- E. Conditional Use #11-4-09; A request by Gerardo Gonzales, agent, for a conditional use for a church located at 2100-2104 North 6<sup>th</sup> Street.**
- F. Conditional Use #12-4-09; A request by Neal Morrison, agent, for a conditional use for a school located at 5700 Zero Street.**
- G. Home Occupation #5-4-09; A request by Jose Raya for a home occupation for a contractor's business located at 1714 North 9<sup>th</sup> Street.**

Members of the audience requested that items 1C and 1G be pulled from the agenda and heard separately.

Chairman Griffin then called for the vote on consent agenda items #1A, 1B, 1D, 1E & 1F. Motion was then made by Commissioner Cannava, seconded by Commissioner Davis and carried unanimously to amend these requests to make approval subject to all staff comments and recommendations.

Chairman Griffin then called for the vote on consent agenda items #1A, 1B, 1D, 1E & 1F as amended. The vote was 6 in favor and 0 opposed.

**1C. Conditional Use #9-4-09; A request by Ben Anderson, agent, for a conditional use for a church located at 7804 Rogers Avenue.**

Mr. Wally Bailey read the staff report indicating that the purpose of this request is to facilitate a new church in an existing building, formerly Books-A-Million.

Mr. Ben Anderson was present to speak on behalf of this request.

Ms. Pam Kelly, 5500 Painter Lane, addressed the Commission relative to her concerns about the marketability of her properties which abut this property. Ms. Kelly noted that due to the fact that this will be a church, she felt it could possibly limit the utilization of her properties for certain types of businesses that may sell alcoholic beverages.

Mr. Bailey stated that the City does not enforce the Alcohol Beverage and Control Board's regulations but stated that he believes their regulations apply to how close a liquor store can be to a church but not an establishment that simply sells alcohol.

Reverend Ben Anderson, 5907 Meadow Brook Drive, was present to speak on behalf of this request. Reverend Anderson noted that he had no objections to having a hotel or restaurant in close proximity that would be selling alcohol.

Mr. Bailey noted that the city regulations governing sexually oriented business could have an impact due to the limitation of that type of business being in close proximity to a church. He also noted that there is already an existing church located on South 79<sup>th</sup> Street behind the site.

Following a discussion by the Commission, motion was made by Commissioner Davis, seconded by Commissioner Cannava and carried unanimously to amend this request to make approval subject to the following:

- Any area and security lighting proposed with the project shall be designed and installed (directed downward and shielded) so as not to create any adverse affects to surrounding properties.

- Landscaping should meet the requirements of the Overlay Districts for perimeter and interior landscaping. This will be reviewed and approved by Planning Staff.
- The dumpster enclosure shall be screened with a minimum 6 feet tall, gated fence and made of wood or masonry material.
- Approval of Conditional Use #12-4-09 does not include the proposed community center and the proposed masjid worship hall. These two buildings will need a separate conditional use approval.

Chairman Griffin then called for the vote on this conditional use request as amended. The vote was 6 in favor and 0 opposed.

**1G. Home Occupation #5-4-09; A request by Jose Raya for a home occupation for a contractor's business located at 1714 North 9<sup>th</sup> Street.**

Ms. Maggie Rice read the staff report indicating that the purpose of this home occupation request is to allow the applicant to operate a contractor's business (stucco remodeling and repair) from his residence. She noted that his application indicates that business hours will be from 7:00 a.m. to 5:00 p.m., Monday through Saturday and that the business will utilize a Chevrolet Suburban vehicle in conjunction with a 16 foot trailer. It was also noted that all supplies for the business would be stored in the Chevrolet Suburban and no customers will be coming to the residence.

Mr. Jose Raya, 1714 North 9<sup>th</sup> Street, was present to speak on behalf of this request. Mr. Raya noted that he understood and had no objections to the staff comments and recommendations.

Ms. Jannie Robinson Green, 1732 North 8<sup>th</sup> Street, expressed her concerns to the Commission relative to construction materials being stored at this location.

Mr. Bailey noted that under the home occupation guidelines the storage of construction materials would not be an allowed activity and that if she sees this type of activity to simply call the Planning Department and if he is found to be in violation, his business license can be revoked.

Motion was then made by Commissioner Parks, seconded by Commissioner Davis and carried unanimously to amend this request to make approval subject to the following:

- All waste materials must be disposed of in a manner consistent with the nature of the materials and shall not be disposed of or stored at the residence.
- The business vehicle will be limited to the one described in the application or one similar.
- All vehicles will be parked in compliance with Fort Smith parking regulations.

- No customers will come to the residence.
- The business license shall not be transferred without reapplication.

Chairman Griffin then called for the vote on this home occupation request as amended. The vote was 6 in favor and 0 opposed.

## **2. Preliminary Plat – Reata, Lots 1-50 – Engineering Design Associates**

### **3. Subdivision Variance #4-4-09; A request by Rob Coleman from the 1,000 feet maximum length of a cul-de-sac to 2,120 feet located at 6901 Massard Road.**

Since these two items were companion items, it was decided to discuss them together but vote on them separately.

Ms. Brenda Andrews read the staff reports indicating that the preliminary plat is for fifty (50) lots for the construction of single family homes with a cul-de-sac length of 2,120 feet rather than the required 1,000 feet. Ms. Andrews noted that the applicant states that strict enforcement of the regulation requiring a maximum cul-de-sac length of 1,000 feet would create a hardship due to the following:

- (1) Costs associated with relocation of an existing power transmission line at the intersection of Massard Road and Huntington Way.
- (2) The diminishment of the desired character of the divided landscape median of Massard with an additional median cut; and
- (3) The steep topography on the eastern side of the subdivision.

Ms. Andrews also noted that the power transmission line and steep topography also limited the locations for ingress and egress into the subdivision and as a result, the proposed subdivision has one main point of ingress and egress at the intersection of Massard Road and Cisterna Way. She stated that the regulation requiring a maximum cul-de-sac length no greater than 1,000 feet is in place to provide safe and adequate street systems for motorists and emergency vehicles; however, to mitigate the requested variance, the applicant has proposed a second access point for emergency access at the intersection of Huntington Way and Massard Road.

Ms. Andrews advised the Commission that the variance request was reviewed by the departments of fire, police, engineering, utilities and operations and no objections were received.

Mr. Rob Coleman was present to speak on behalf of these requests.

No one was present to speak in opposition to these requests.

Mr. Bailey advised the Commission that the subdivision variance would need to be voted on prior to voting on the preliminary plat.

**3. Subdivision Variance #4-4-09; A request by Rob Coleman from the 1,000 feet maximum length of a cul-de-sac to 2,120 feet located at 6901 Massard Road.**

Chairman Griffin then called for the vote on the subdivision variance request. The vote was 6 in favor and 0 opposed.

**2. Preliminary Plat – Reata, Lots 1-50 – Engineering Design Associates**

Chairman Griffin then called for the vote on this preliminary plat. The vote was 6 in favor and 0 opposed. The plat was approved subject to the developer agreeing to meet all franchise and City utility easement requirements and compliance with the Fort Smith Subdivision Regulations.

**4. Preliminary Plat – Clayton Heights, Phase II, Lots 1-57 – Hawkins-Weir**

Ms. Brenda Andrews read the staff report indicating that the purpose of this plat is for the construction of single family homes and storm water detention facilities.

Mr. Ronnie Hawkins was present to speak on behalf of this request.

The following residents of the North Pointe Phase I development addressed the Commission with their testimonials of how this type of development is needed and the great benefits and rewards they and their families have received from this type of development.

Ms. Lacy Hill, 3020 North Pointe Place; Mr. Neal Rice, 3012 North Pointe Place; Ms. Cynthia Adams, 3105 North Pointe Place and Ms. Valenia Weathersby, 3024 North Point Place.

Ms. Reva Stover, 6000 Williams Lane, questioned the Commission as to when it became a State law that as long as a plat meets all the criteria it had to be approved.

Mr. Bailey stated that just like a building permit, if a plat meets all the requirements, it cannot arbitrarily be denied.

Chairman Griffin called for a show of hands of all persons in attendance opposing this request. There were approximately nineteen (19) people who raised their hands.

Mr. Mack McKinley, 5022 Williams Lane, addressed the Commission relative to his concerns with the existing inadequate drainage in this area and the additional affects this development would have on the drainage system and all other infrastructure in the area.

Mr. David Williams, 6009 Williams Lane, addressed the Commission with his concerns relative to overcrowding of the existing school, water, sewer and other infrastructure within the area and the safety of the children due to the fact that there is an existing operating cattle farm. Mr. Williams also cited his concerns relative to property devaluation.

Mr. Ronnie Hawkins noted that the existing drainage problems will not be solved with this development; however, there will be no additional problems created as a result of this development.

Following a discussion by the Commission, Chairman Griffin then called for the vote on this preliminary plat. The vote was 6 in favor and 0 opposed. The preliminary plat was approved subject to the developer agreeing to meet all franchise and City utility easement requirements and compliance with the Fort Smith Subdivision Regulations.

**5. Rezoning #7-4-09; A request by Reva Stover, agent, for Planning Commission consideration of a zone change from Industrial-2, Residential-7, Residential-3-Single-Family, Residential-3-Single-Family-Duplex to Residential-2-Single-Family by Classification located at 4201 Clayton Expressway, 5401, 5317 and 6001 Fort Lane, 3310, 3519, 3705, 3711, 3717, 3725, 4005 and 4105 Newlon Road, 5023 and 5900 Williams Lane, 5001, 5009 and 5101 Mussett Road, 3100, 3116, 3300, 3305, 3309 and 3315 Spring Street and 4901, 4920 and 5105 North 31<sup>st</sup> Street.**

Mr. Wally Bailey read the staff report indicating that the purpose of this request is to preserve the existing low density, single-family residential character of the area.

He noted that on February 10, 2009, the Planning Commission recommended approval of a zone change to Residential-2-Single-Family for twenty-two (22) properties in this area. The Board of Directors approved the zoning request on March 3, 2009. This rezoning application will further solidify the neighborhood's desire for Residential-2-Single-Family zoning and protect the single-family character of the area.

Among the twenty-four (24) property owners listed in the application, six (6) of the owners did not authorize Ms. Stover to act as their agent. These owners include: 1) Mary Beth Koprovic, 3725 Newlon Road; 2) Khanh Le, 4105 Newlon Road; 3) Jose D. Vidal, 4005 Newlon Road; 4) Paul Miller, 3717 Newlon Road; 5) James Hayes, 3705 Newlon Road and 6) Fort Smith Housing Authority, 5023 Williams Lane. Mr. Bailey stated that Section 27-45(b) of the Fort Smith Municipal Code states that a change in the zoning map or the zoning regulations may be proposed by the city planning commission either on its own initiative or upon the application of any interested property owner within the area proposed for a change.

Mr. Bailey noted the following four examples of previous zoning petitions acted on by the planning commission that included property for which the zone change was requested by someone other than the property owner:

- Rezoning #10-5-03 – Request by Thomas Robertson, Jr., agent, for four (4) property owners for planning commission consideration of a zone change from Residential-2-Single-Family-Duplex to Residential-1-Single-Family by Classification located at 5101-5103 Massard Road and 8500-8600 Moody Road.

In this petition, a developer had previously received Planning Commission final plat approval for the Joe Cox Addition, Lots 2A-2E and had completed installation of water and sewer lines. The planning commission unanimously recommended the approval of the zone change with the exclusion of the Joe Cox Addition from the zoning petition. Upon appeal, the Board of Directors included the Joe Cox Addition in the petition and approved the zone change.

- Rezoning #23-9-03 – Request by Phillip Taylor, agent, for a zone change from Residential-3-Multi-Family and Residential-2-Single-Family-Duplex to Residential-2-Single-Family by Classification located at 8300-9312 Canopy Oaks Drive.

In this petition, Lot 22 of the Canopy Oaks Subdivision owned by Tom Cravens was included in the petition. Mr. Cravens objected to the zone change and asked that it be excluded. The planning commission agreed with Mr. Cravens and recommended denial of the zoning request 6-2. Upon appeal, the Board of Directors approved the zone change and included Mr. Cravens' property.

- Rezoning #12-4-04 – Request by Frank Hug, Jr., agent, for Planning Commission consideration of a zone change from Residential-2-Single-Family-Duplex to Residential-2-Single-Family by Classification located at 3600-4199 South “S”, 3800-4199 South “T”, 3800-3999 South “U”, 3800-3999 South “V”, 3800-3999 South “W”, 1800-2499 Hendrix and 2000-2199 South Albert Pike.

In this petition, Dorance Damron of 2001 Hendricks Boulevard objected to the inclusion of his property, but the planning commission recommended approval of the zone change, including Mr. Damron's property. The Board approved the zone change.

- Rezoning #11-3-03; Request by Robert Yoes, agent, for a zone change from Residential-2-Single-Family-Duplex to Residential-2-Single-Family by Extension located in East Point Addition, Chamber Addition, Four Star Acres, Grandview at Skyline Estates, Kim-Lisa Place, King Place, Lee Legacy Addition, Meed Lane, Meadow Creek, Oak Hollow, Painter Acres, Pine Woods, Prescott Addition, Promise Lane, Shadow Branch Estates, Skyline Estates – Phase I-V, Yates Addition and certain unplatted tracts of land.

In this petition, the planning commission expressed concern that two owners had not given their consent for the rezoning and unanimously recommended to exclude from the petition property at 9505 Moody Road and another portion of a property on

Moody Road. On appeal, the Board approved the zone change and included both properties.

Mr. Bailey noted that the planning staff has received a telephone call from Trinity Dameron of Davis, Oklahoma. Ms. Dameron's property is not included in the application for a zone change, but she owns vacant property on the north side of Clayton Expressway near its intersection with Fort Lane. Ms. Dameron opposed the requested zone change because she believes the land could be utilized for uses other than residential.

Mr. Bailey stated that the properties proposed for a zone change have a predominantly rural setting and are developed with single-family homes situated on large lots and acreage. The property owners wish to maintain this character by down-zoning to Residential-2-Single-Family, which would only permit single-family homes on minimum lots of 10,500 square feet. All of the properties in the zoning petition meet or exceed the minimum lot requirements for Residential-2-Single-Family with the exception of two properties. The property located at 5001 Mussett Road is approximately 64' x 244'. The property meets the minimum lot area, but does not meet the 75' minimum lot width at building line. The property at 4920 North 31<sup>st</sup> Street is approximately 45' x 150' and does not meet the minimum lot area or minimum lot width at building line. Although both lots will be non-conforming lots if the zoning request is approved, staff recommends that both lots remain in the zoning petition.

Mr. Bailey made reference to a resolution from the Fort Smith Housing Authority objecting to the inclusion of their property in the zoning request. It was noted that the planning staff has not been contacted by other property owners who did not give their consent for the rezoning.

Mr. Bailey advised the Commission that the options they have on this rezoning request is to either make recommendation on the application as submitted, make an amended recommendation, or deny the application.

Ms. Reva Stover, 6000 Williams Lane, spoke on behalf of this request. She stated that the Housing Authority has an option to relocate this development elsewhere; however, the residents do not have the option of moving the neighborhood. She also noted that they are not opposed to people having quality and affordable housing. She stated that she felt they have something special in the area of Williams Lane and that two years ago they were assured by Mr. Dean Kruithof and Velvet Medlock Barrows that the Housing Authority would have to look elsewhere.

She stated that the neighborhood has always felt that there has been a conflict of interest and that when addressed by the City leadership, it was determined that this is status quo, that it is o.k. for the Chairman to purchase land, direct the entity to purchase land with CDBG money, then gift his property to join that property. Then after all consulting work is done, it is appropriate to go to Board to ask for



infrastructure monies. She noted that the main reason this project is being put on Williams Lane rather than somewhere else is due to the fact that this property did not cost them anything.

Ms. Stover also noted that this development will create a burden for utilities, traffic and schools in the area. She noted that in reviewing police reports for the North Pointe area they receive an average of one call a week for various reasons.

She asked the Commission to return to their objectives and consider the potential of this area and the appropriateness of the requested zoning classification and recommend approval of this rezoning request.

Mr. David Harris, 2025 South “V”, questioned if the Planning Commission excludes the Housing Authority’s property can the Board of Directors put it back in the rezoning request.

Mr. Bailey stated that the Board could in fact put the Housing Authority’s property back into the rezoning request and in the past that is exactly what they have done.

Mr. Ken Pyle, representing the Fort Smith Housing Authority, spoke in opposition to this request. Mr. Pyle asked the Planning Commission to recommend to the City Board of Directors the removal of the 14 acres of their property currently zoned R-7 located at 5023 Williams Lane from the rezoning request. He stated that they agree with the rezoning of their two acres of I-2 property. He stated that as presented in their preliminary plat they intend to build 57 single family affordable houses in a mixed income environment similar to what has been created on North 6<sup>th</sup> Street with our North Pointe development, without the duplexes.

He stated that following the rejection of our rezoning request in March, we looked at our options and decided we could build an affordable development with only single family homes, which the Williams Lane residents said was a primary concern in that they did not want duplexes. Mr. Pyle noted that they have listened carefully to input and concerns from the neighborhood starting in early December 2008, with a preliminary meeting with Ms. Stover and other residents. He also noted that a community meeting was held on January 15<sup>th</sup> at Morrison Elementary to continue the discussion. He stated that they have listened, adjusted their plan and worked with the City departments to address every concern raised relative to traffic, drainage, water and sewer service, street right-of-way, and issues with Morrison Elementary. In each case, he stated that he believed they have presented viable solutions to address neighborhood concerns. He noted the street and site plan had been adjusted to improve the safety of traffic flow on Williams lane and to eliminate the need for widening the Williams lane “dogleg.” Water and sanitary sewer systems will be designed in such a way as to cause no negative impacts on service to the current residents and possibly improve the service and reliability of the water system in the area by looping our system with the current distribution lines along Williams Lane.

Mr. Pyle stated that he had spoke with Dr. Benny Gooden of the Fort Smith Public Schools Superintendent, about Morrison Elementary and he is comfortable that the district has sufficient time before the first influx of students in fall of 2011 to have classroom and staff capacity in place. In fact, Mr. Gooden advised him that from his perspective, an increase in students at Morrison Elementary may provide the justification he has needed for some time to increase the size of the school to make it more efficient.

Mr. Pyle advised the Commission that approximately three years ago the Fort Smith Housing Authority Board of Commissioners embarked on a new mission to change the model of public housing in Fort Smith. North Pointe I is built and fully occupied, Ragon Homes has been demolished and North Pointe II will be built on the Ragon site. When completed, North Pointe will have 117 units of single-family and duplex rental houses with 2-3 and 4 bedrooms in a beautiful home-ownership neighborhood setting with wide streets, good setbacks in the front and side yards, two-car garages, sidewalks on both sides of the streets and rear patios. He stated that the standards are high for prospective tenants that include a five year criminal background check, credit checks and a tight lease that is enforced aggressively and they are committed to maintaining the high standards used in the initial lease-up of North Pointe in 2007.

Mr. Pyle also advised the Commission that they have a very satisfied group of residents at North Pointe and offered the following reasons why the development at Williams Lane is a good thing for Fort Smith and Williams Lane neighborhood:

- The Fort Smith Housing Authority is a public agency, fully accountable to the citizens of this City and to maintaining the highest standards of maintenance of the property and will demand the highest standards of behavior from our tenants and their guests and will be good neighbors.
- They have listened to the concerns of the residents and followed up with extensive consultation with City staff and our engineering firm to provide solutions to their issues and concerns.
- The Clayton Heights development at Williams lane is a \$9 million construction project for business and industry in this town and in these difficult economic times, a project like this that brings jobs and money into Fort Smith via the tax credits and equity financing is a good thing to do.
- Their market study clearly demonstrates the high demand in Fort Smith for quality, affordable rental housing and they currently have a 100 percent occupancy at North Pointe and expect to lease-up North Pointe II within 5-7 months of completion.
- Adding more students to Morrison Elementary will strengthen its standing within the school system and make it a better asset for this neighborhood.

Ms. Cynthia Shaw, 3725 Newlon Road, addressed the Commission. Ms. Shaw noted that she is currently renting with an option to buy. She expressed her concerns relative to some things she had been hearing from property owners—such as if this type of housing is allowed, what kind of people will we have living in our neighborhood. Ms. Shaw stated that she hopes the type of people this development will bring will be human beings with the same hopes and dreams for their children as anyone else would have. Ms. Shaw expressed her desire to allow this development to be constructed.

Following a discussion by the Commission, motion was made by Commissioner Cannava, seconded by Commissioner Lau and carried with Commissioners Parks and Lorenz opposing an amendment to remove from the rezoning request the six (6) owners' property who did not authorize Ms. Stover to act as their agent. These properties were identified as follows:

3725 Newlon Road; 4105 Newlon Road; 4005 Newlon Road; 3717 Newlon Road  
3705 Newlon Road and the R-7 property owned by the Fort Smith Housing  
Authority located at 5023 Williams Lane.

Chairman Griffin then called for the vote on this rezoning request as amended. The vote was 5 in favor and 1 opposed (Lorenz).

**6. Home Occupation #4-4-09; A request by Josefina Coronado for a home occupation for a clothing and shoe sales business located at 2512 High Street.**

Ms. Brenda Andrews read the staff report indicating that the purpose of this home occupation request is to allow the applicant to operate a clothing and shoe sales business from her residence. Ms. Andrews noted that Ms. Coronado's application does not indicate any specific business hours but states the time will be by appointment only and that the clothing and shoes merchandise is proposed to be stored in her garage and will occupy approximately 50% of the garage space. Ms. Andrews stated that the business will utilize a Ford Aerostar van and that no customers will be coming to the residence.

Ms. Josefina Coronado, 2512 High Street, along with her interpreter, Liliana Sierra, 3600 Kinkead #137, was present to speak on behalf of this request. Ms. Sierra advised the Commission that Ms. Coronado has stated that no deliveries will be made to the home. All merchandise is transported from Mexico and that she has no problems with any of staff's comments or recommendations relative to her request.

No one was present to speak in opposition to this request. However, the planning department did receive a petition from the neighborhood expressing their opposition to this request citing safety concerns.

Motion was then made by Commissioner Davis, seconded by Commissioner Cannava and carried unanimously to amend this request to make approval subject to the following:

- No employees, apart from resident family members, will participate in the business.
- The business vehicle will be limited to the one described in the application or another similar vehicle.
- All vehicles must be parked according to Fort Smith's parking regulations.
- No customers will come to the residence. The applicant may only display, sell and deliver the merchandise at the customers' home. No business transactions will be allowed at the applicant's home, including any pick-ups by customers.
- Advertising will not utilize the home address.
- No signs will be utilized. Advertising may be utilized on the vehicle; however, the home address may not be displayed.
- No commercial trash container will be utilized.
- The business license may not be transferred without reapplication.

Chairman Griffin then called for the vote on this home occupation request as amended. The vote was 6 in favor and 0 opposed.

**7. Home Occupation #6-4-09; A request by Michael Reuterskiold for a home occupation for a roofing and remodeling business located at 2301 North 53<sup>rd</sup> Street.**

Ms. Maggie Rice read the staff report indicating that the purpose of this home occupation request is to allow the applicant to operate a roofing and remodeling business from his residence. Ms. Rice noted that the application indicates the business hours will be from 10:00 a.m. to 7:00 p.m., Monday through Saturday and that the business will utilize a ½ ton Dodge Truck in conjunction with a 12 foot trailer. It was also noted that all storage of supplies will be limited to 20% of the residential floor area and no customers will be coming to the residence.

Mr. Michael Reuterskiold, 2301 North 53<sup>rd</sup> Street, was present to speak on behalf of this request.

No one was present to speak in opposition to this request. The Planning Department did receive an e-mail and letter opposing this request citing their concerns relative to devaluation of property.

Following a discussion by the Commission, motion was made by Commissioner Davis, seconded by Commissioner Lau and carried unanimously to amend this request to make approval subject to the following:

- All waste materials must be disposed of in a manner consistent with the nature of the materials and shall not be disposed of or stored at the residence.
- The business vehicle will be limited to the one described in the application or one similar.
- All vehicles will be parked in compliance with Fort Smith parking regulations.
- No customers will come to the residence.
- The business license shall not be transferred without reapplication.

Chairman Griffin then called for the vote on this home occupation request as amended. The vote was 6 in favor and 0 opposed.

**8. Driveway Variance; A request by Doyle A. Tidwell for a driveway variance from Section 22-78(b) from Portland cement concrete driveway to Blue stone driveway located at 615 Cedar Lane.**

Ms. Brenda Andrews read the staff report indicating that the purpose of this driveway variance is to permit two driveway approaches to be constructed of “Blue Stone” rock.

Mr. Doyle Tidwell, 615 Cedar Lane, was present to speak on behalf of this request.

No one was present to speak in opposition to this request.

Following a discussion by the Commission, motion was made by Commissioner Parks, seconded by Commissioner Lorenz and carried unanimously to amend this request to make approval subject to the following:

- Driveway construction shall not damage the curb and gutter.
- The rock driveway approaches shall be built to comply with city driveway approach standards if a residence is constructed on the lot.
- The City will not be responsible for replacing the rock driveway approaches associated with any city maintenance work.

Chairman Griffin then called for the vote on this driveway variance as amended. The vote was 6 in favor and 0 opposed.

**9. Driveway Variance; A request by Jeff Fenwick for a driveway variance from 2 to 3 driveways on a single lot located at 9900 Turtle Bay Drive.**

Mr. Wally Bailey read the staff report indicating that the purpose of this driveway variance is to permit one (1) additional driveway entrance along a 247' frontage. He noted that the additional driveway will provide a driveway for a detached garage.

No one was present to speak on behalf of this request.

No one was present to speak in opposition to this request.

Following a discussion by the Commission, motion was made by Commissioner Parks, seconded by Commissioner Lorenz and carried unanimously to amend this request to make approval subject to the driveway complying with Article III, Section 22-78 of the Fort Smith Municipal Code regarding driveway approaches.

Chairman Griffin then called for the vote on this driveway variance request as amended. The vote was 6 in favor and 0 opposed.

## **RECESS PLANNING COMMISSION CONVENE BOARD OF ZONING ADJUSTMENT**

### **10. Variance #21-4-09; A request by William Oberste for a variance from 5' to 1.5' interior side yard setback located at 1305 North 37<sup>th</sup> Street.**

Ms. Maggie Rice read the staff report indicating that the purpose of this variance request is to permit a 12' x 20' prefabricated metal carport to be built on an existing concrete slab.

Mr. Bill Oberste was present to speak on behalf of this request.

Mr. David Harris addressed the Commission. He noted to the Commission that if a preliminary plat meets all the regulations, the Commission has to approve; however, he reminded the Commission that State law requires a variance to meet a certain defined hardship before it can be approved.

Chairman Griffin then called for the vote on this variance request. The vote was 6 in favor and 0 opposed.

### **11. Variance #22-4-09; A request by Scott Hathaway, agent, for a variance from 25' to 4' minimum distance from right-of-way located at 1220 North 32<sup>nd</sup> Street.**

Mr. Wally Bailey read the staff report indicating that the purpose of this variance request is to enclose an open portion of the existing building which is covered by a roof but not walled in. He noted that the company is seeking this request to expand the indoor office area of the building and to construct a 16.4 by 7.8 foot wood framed canopy on the west side of an existing metal storage shed.

Mr. Scott Hathaway was present to speak on behalf of this request.

No one was present to speak in opposition.

Chairman Griffin then called for the vote on this variance request. The vote was 6 in favor and 0 opposed.

**Meeting Adjourned!**